



## TEXAS DEPARTMENT OF INSURANCE

### Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

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## MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

### GENERAL INFORMATION

**Requestor Name**

The Hand Center of SO CA

**Respondent Name**

New Hampshire Insurance Co

**MFDR Tracking Number**

M4-17-3487-01

**Carrier's Austin Representative**

Box Number 19

**MFDR Date Received**

July 28, 2017

### REQUESTOR'S POSITION SUMMARY

**Requestor's Position Summary:** "The Hand Center of Southern California has billed and re-billed this claim for years, however we have not been paid. Initially, we used California procedure codes. After they were denied, we re-billed with Texas codes. Those were also denied. I have tried to find a solution with the patient's Gallagher adjuster, however she only advises to re-bill. Due to excessive cost of these claims, we cannot allow this issue to fall by the wayside."

**Amount in Dispute:** \$2,145.00

### RESPONDENT'S POSITION SUMMARY

**Respondent's Position Summary:** "Our initial response to the above referenced medical fee dispute resolution is as follows: we have escalated the bills in question for bill review audit and payment."

**Response Submitted by:** Gallagher Bassett

### SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
November 11, 2011	93970, 93971, 97124, 97110, 97014, 97016	\$175.00	\$0.00
November 14, 2011	97124, 97110, 97014, 97016	\$115.00	
November 18, 2011	97124, 97110, 97014, 97016	\$115.00	
November 21, 2011	97124, 97110, 97014, 97016	\$115.00	
December 9, 2011	97124, 97110, 97014, 97016	\$115.00	
December 14, 2011	93970, 93971, 97124, 97110, 97014, 97016	\$175.00	
February 27, 2012	93970, 93971, 97124, 97110, 97014, 97016	\$175.00	
March 2, 2012	97124, 97110, 97014, 97016	\$115.00	
April 16, 2012	93970, 93971, 97124, 97110, 97014, 97016	\$175.00	
December 17, 2012	93970, 93971, 97124, 97110, 97014, 97016	\$175.00	
January 23, 2013	93970, 93971, 97124, 97110, 97014, 97016	\$175.00	
February 6, 2013	97124, 97110, 97016, [sic] 97016	\$115.00	
February 20, 2013	97124, 97110, 97014, 97016	\$115.00	
February 22, 2013	97124, 97110, 97014, 97016	\$115.00	

February 25, 2013	93970, 93971, 97124, 97110, 97014, 97016 Total	<u>\$175.00</u> \$2,145.00	
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### ***FINDINGS AND DECISION***

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation.

#### **Background**

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. The insurance carrier denied payment for the disputed services with the following claim adjustment codes:

<u>Date of Explanation of Benefits</u>	<u>Date of Service</u>	<u>Denial Reason</u>
March 15, 2016	November 11, 2011	18 – Duplicate Claim/Service
March 16, 2016	November 11, 2011	29 – The time limit for filing has expired
December 14, 2015	November 11, 2011	8 – The procedure code is inconsistent with the provider type/specialty (taxonomy)
March 15, 2016	November 14, 2011	18 – Duplicate claim/service
March 3, 2016	November 18, 2011	29 – The time limit for filing has expired
September 9, 2016	November 21, 2011	29 – The time limit for filing has expired
June 14, 2016	December 7, 2011	29 – The time limit for filing has expired
March 16, 2016	December 9, 2011	18 – Duplicate claim/service
December 14, 2015	December 9, 2011	8 – The procedure code is inconsistent with the provider type/specialty (taxonomy)
June 17, 2016	February 27, 2012	18 – Duplicate claim/service
March 3, 2016	December 14, 2011	16 – Claim/service lacks information or has submission/billing error(s) which is needed for adjudication
March 15, 2016	February 27, 2012	18 – Duplicate claim/service
June 14, 2016	March 2, 2012	18 – Duplicate claim/service
March 4, 2016	April 16, 2012	18 – Duplicate claim/service
March 4, 2016	December 17, 2012	29 – The time limit for filing has expired
December 14, 2015	February 1, 6, 20, 25 2013	8 – The procedure code is inconsistent with the provider type/specialty (taxonomy) 16 – Claim/service lacks information or has submission/billing error(s) which is needed for adjudication
March 4, 2016	January 23, 2013	8 – The procedure code is inconsistent with the provider type/specialty (taxonomy)
March 4, 2016	February 6, 2013	16 – Claim/service lacks information or has submission/billing error(s) which is needed for adjudication 181 – Procedure code was invalid on the date of service
June 15, 2016	February 6, 2013	16 – Claim/service lacks information or has submission/billing error(s) which is needed for adjudication 181 – Procedure code was invalid on the date of service
March 15, 2016	February 23, 2013	18 – Duplicate claim/service
March 8, 2016	February 22, 2013	197 – Precertification/authorization/notification absent 23 – (234) This procedure is not paid separately
March 4, 2016	February 25, 2013	18 – Duplicate claim/service

## Issues

1. Under what authority is a request for medical fee dispute resolution considered?
2. Does an exception to deadline for filing request for MFDR exist?
3. Is the requestor due additional reimbursement?

## Findings

1. The requestor seeks reimbursement for physical therapy services rendered in California on November 11, 2011 through February 25, 2013, to an injured employee with an existing Texas Workers' Compensation claim. The requestor was dissatisfied with the respondent's final action and as a result, the requestor filed for dispute resolution under 28 Texas Administrative Code §133.307. The Division concludes that because the requestor sought the administrative remedy outlined in 28 Texas Administrative Code §133.307 for resolution of the fee matter, the dispute is to be decided under the jurisdiction of the Texas Workers' Compensation Act and applicable rules.

2. Texas Administrative Code 137.307 (c) (1) states,

Requests. Requests for MFDR shall be filed in the form and manner prescribed by the division. Requestors shall file two legible copies of the request with the division.

(1) Timeliness. A requestor shall timely file the request with the division's MFDR Section or waive the right to MFDR. The division shall deem a request to be filed on the date the MFDR Section receives the request. A decision by the MFDR Section that a request was not timely filed is not a dismissal and may be appealed pursuant to subsection (g) of this section.

(A) A request for MFDR that does not involve issues identified in subparagraph (B) of this paragraph shall be filed no later than one year after the date(s) of service in dispute.

(B) A request may be filed later than one year after the date(s) of service if:

- (i) a related compensability, extent of injury, or liability dispute under Labor Code Chapter 410 has been filed, the medical fee dispute shall be filed not later than 60 days after the date the requestor receives the final decision, inclusive of all appeals, on compensability, extent of injury, or liability;
- (ii) a medical dispute regarding medical necessity has been filed, the medical fee dispute must be filed not later than 60 days after the date the requestor received the final decision on medical necessity, inclusive of all appeals, related to the health care in dispute and for which the insurance carrier previously denied payment based on medical necessity; or
- (iii) the dispute relates to a refund notice issued pursuant to a division audit or review, the medical fee dispute must be filed not later than 60 days after the date of the receipt of a refund notice.

Review of the carrier's, explanation of benefits reasons for non-payment did not find an issue related to compensability, extent of injury, liability, medical necessity or refund. Therefore, as no exception to the requirements of Texas Administrative Code 133.307 (c) (1) was found the Division finds this request for MFDR was not timely.

- 28 Texas Administrative Code 133.307 (g) states,

Appeal of MFDR Decision. A party to a medical fee dispute may seek review of the decision. Parties are deemed to have received the MFDR decision as provided in §102.5 of this title. The MFDR decision is final if the request for the benefit review conference is not timely made. If a party provides the benefit review officer or administrative law judge with documentation listed in subsection (d)(2)(H) or (I) of this section that shows unresolved issues regarding compensability, extent of injury, liability, or medical

necessity for the same service subject to the fee dispute, then the benefit review officer or administrative law judge shall abate the proceedings until those issues have been resolved.

(1) A party seeking review of an MFDR decision must request a benefit review conference no later than 20 days from the date the MFDR decision is received by the party. The party that requests a review of the MFDR decision must mediate the dispute in the manner required by Labor Code, Chapter 410, Subchapter B and request a benefit review conference under Chapter 141 of this title (relating to Dispute Resolution--Benefit Review Conference). A party may appear at a benefit review conference via telephone. The benefit review conference will be conducted in accordance with Chapter 141 of this title.

(A) Notwithstanding §141.1(b) of this title (relating to Requesting and Setting a Benefit Review Conference), a seeking review of an MFDR decision may request a benefit review conference.

(B) At a benefit review conference, the parties to the dispute may not resolve the dispute by negotiating fees that are inconsistent with any applicable fee guidelines adopted by the commissioner.

(C) A party must file the request for a benefit review conference in accordance with Chapter 141 of this title and must include in the request a copy of the MFDR decision. Providing a copy of the MFDR decision satisfies the documentation requirements in §141.1(d) of this title. A first responder's request for a benefit review conference must be accelerated by the division and given priority in accordance with Labor Code §504.055. The first responder must provide notice to the division that the contested case involves a first responder.

(2) If the medical fee dispute remains unresolved after a benefit review conference, the parties may request arbitration as provided in Labor Code, Chapter 410, Subchapter C and Chapter 144 of this title (relating to Dispute Resolution). If arbitration is not elected, the party may appeal the MFDR decision by requesting a contested case hearing before the State Office of Administrative Hearings. A first responder's request for arbitration by the division or a contested case hearing before the State Office of Administrative Hearings must be accelerated by the division and given priority in accordance with Labor Code §504.055. The first responder must provide notice to the division that the contested case involves a first responder.

(A) To request a contested case hearing before State Office of Administrative Hearings, a party shall file a written request for a State Office of Administrative Hearings hearing with the Division's Chief Clerk of Proceedings not later than 20 days after conclusion of the benefit review conference in accordance with §148.3 of this title (relating to Requesting a Hearing).

(B) The party seeking review of the MFDR decision shall deliver a copy of its written request for a hearing to all other parties involved in the dispute at the same time the request for hearing is filed with the division.

(3) A party to a medical fee dispute who has exhausted all administrative remedies may seek judicial review of the decision of the Administrative Law Judge at the State Office of Administrative Hearings. The division and the department are not considered to be parties to the medical dispute pursuant to Labor Code §413.031(k-2) and §413.0312(f). Judicial review under this paragraph shall be conducted in the manner provided for judicial review of contested cases under Chapter 2001, Subchapter G Government Code, except that in the case of a medical fee dispute the party seeking judicial review must file suit not later than the 45th day after the date on which the State Office of Administrative Hearings mailed the party the notification of the decision. The mailing date is considered to be the fifth day after the date the decision was issued by the State Office of Administrative Hearings. A party seeking judicial review of the decision of the administrative law judge shall at the time the petition for judicial review is filed with the district court file a copy of the petition with the division's chief clerk of proceedings.

3. This request for MFDR does not meet the timeliness requirement of Texas Administrative Code 133.307 (c) (1) no additional reimbursement can be recommended.

### **Conclusion**

For the reasons stated above, the Division finds that the requestor has not established that additional reimbursement is due. As a result, the amount ordered is \$0.00.

### ***ORDER***

Based on the submitted information, pursuant to Texas Labor Code Section 413.031, the division hereby determines the requestor is entitled to \$0.00 additional reimbursement for the services in dispute.

### **Authorized Signature**

_____	_____	September 19, 2017
Signature	Medical Fee Dispute Resolution Officer	Date

### ***YOUR RIGHT TO APPEAL***

Either party to this medical fee dispute has a right to seek review of this decision in accordance with Rule §133.307, effective May 31, 2012, *37 Texas Register 3833*, **applicable to disputes filed on or after June 1, 2012.**

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MFDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**